

Appl. No. : 09/970,389
Filed : 10/02/2001

REMARKS

By way of summary, Claims 1-67 were originally filed with the application. In a subsequent response to Restriction Requirement, the Applicant elected Claims 25-48 and cancelled Claims 1-24 and 49-67 without prejudice. Accordingly, Claims 25-48 remain pending in the application. By this amendment, Claims 25, 27, 33, and 44-48 are amended and no new claim is added.

Claim rejections under 35 U.S.C. §103(a)

Claims 25-48 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,030,447 to Naji (“Naji”) in view of the admitted prior art (Specification paragraph [0031] and Table 1) with or without U.S. Patent No. 6,419,788 to Wingerson (“Wingerson”).

Specifically, the Examiner indicates that Naji teaches a composite building material comprising cellulose fibers, an aggregate, a density modifier and one or more additives. The Examiner also notes that the specification of the present application teaches that conventional pulping and washing at conventional temperatures results in cellulose fibers having a COD content of 5 kg/ton. It is the Examiner’s position that the claimed “less than about 5 kg/ton” would read on 5 kg/ton +/- 10% (“less than 4.5 to 5.5 kg/ton”), which does not define over the washing of the admitted prior art.

By this amendment, the Applicants have removed the term “about” in Claims 25, 33, and 44-48 to clarify that the claimed composite building material incorporates fibers having a COD content of less than 5 kg/ton, which is lower than fibers washed at conventional temperature conditions. Moreover, the Applicants note that neither Naji nor the admitted prior art in the specification teach or suggest a composite building material incorporating low COD fibers that have been *pretreated with an elevated temperature washing process* such that the fibers have a COD content of less than 5 kg/ton. Accordingly, the Applicants note that the pending claims are patentable over Naji in view of the admitted prior art.

The Examiner also cites Wingerson and indicates that Wingerson teaches producing substantially pure cellulose by first treating cellulosic material with steam and then washing with alkaline hot wash water containing dissolved oxygen at elevated temperatures e.g., 180 to 240 °C to remove, decompose, mobilize and remove lignin, extractive and residual hemicellulose. The

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Examiner believes that the Wingerson washing process could be applied to washing the cellulose fibers disclosed in Naji and would lower the COD's of the cellulose fibers to less than 5 kg/ton.

However, after careful review of Wingerson, the Applicants respectfully disagree that Wingerson teaches or suggests a washing process which would result in reinforcing cellulose fibers having the recited COD content. The Applicants note that Wingerson actually discloses a delignification process for converting biomass to pure cellulose, which is very different from fiber washing process. The biomass materials primarily consist of cellulose, hemicellulose, and lignin bound together in a complex gel structure along with small amounts of extractives. (See, col. 1, lines 26-29) The delignification process described in Wingerson is usually conducted under very high temperature conditions under which the cellulosic biomass is cooked to the extent of becoming a solid residual mass containing pure cellulose. (See, col. 5, lines 9-11) The Applicants note that if the Wingerson process were applied to the cellulose fibers disclosed in Naji, the cellulose fibers would become a solid mass and rendered ineffective as reinforcing fibers. Accordingly, there is no motivation to utilize the Wingerson process for the purpose of washing reinforcing cellulose fibers disclosed in Naji to reduce fiber COD content. Thus, the Applicants respectfully submit that Wingerson in combination with Naji does not teach or suggest the composite building material incorporated the low COD reinforcing cellulose fibers as recited in the pending claims.

Declaration Under 37 C.F.R. 1.131

With respect to the Examiner's objections to the previously submitted declaration under 37 C.F.R. §1.131, the Applicants respectfully submit that the issue is moot in view of the foregoing discussions in which the Applicants assert that the pending claims are patentable over the Naji reference.

Conclusion

In view of the foregoing, the Applicant respectfully submits that all pending claims of the present application are in condition for allowance, and such action is earnestly solicited. Should there be any impediment to the prompt allowance of this application that could be resolved through a telephone conference, the Examiner is respectfully requested to call the undersigned at the number shown below.

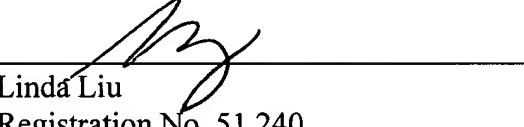
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 1/13/06

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